

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14698 of 2003

Between:

- 1 M/s. Sri Lakshmi cloth Stores, A Partner Ship Firm, rep by Managing Partner
V. Visweswara Rao s/o Hanumaiah
40 years R/o M.G. Road, Kothagudem, Khammam District
- 2 Sri Lakshmi Cerations, Proprietary Concern rep by its Proprietor
V. Vani, W/o Visweswara Rao
35 years R/o M.G. Road, Kothagudem, Khammam District

..... PETITIONER(S)

AND

- 1 the Chairman, Indian Overseas Bank, No.8, Sterling Avenue,
Nungambakam, Chennai-600 034
- 2 Indian Overseas Bank, rep by its Authorised Officer,
Regopma; Office, 40-09-27, Ring Road,
Near Benz Circle, Vijayawada-520 008
- 3 The Union of India, rep by its Secretary, Ministry of Finance &
Planning (Banking Division) Jeevandeep Buildings, Sansad Marg
New Delhi

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent herein in issuing the impugned notices against the petitioners and their guarantors dated 09-01-2003

under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (second) Ordinance 2002 in requiring the petitioners to pay all the dues to the Bank within 60 days from the date of the impugned Notices and possession notice dated 18-06-2003 issued in exercise of the power conferred on the respondent under Section 13 (4) of the said Act including the provisions of Section 13, 17 & 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security interest (Second) ordinance 2002, as illegal arbitrary capricious, violative of the principles of natural justice, unconstitutional, violative of Rule of law and also violative of the Fundamental Rights under Article 13 & 14 of the Constitution of India and consequently to set aside the impugned notices and strike down the provisions of section 13, 17 & 34 of the Act/ Ordinance

Counsel for the Petitioner:MR.MOHD.MOINUDDIN

Counsel for the Respondent No.1 & 2 : MR.D.GOPALA KRISHNA

Counsel for the respondent No.3: Mr A.Rajasekhar Reddy,SC for CG

The Court made the following ORDER:

(per Hon'ble Sri Devinder Gupta, The Chief Justice)

In view of the decision of the Hon'ble Supreme Court in Transfer Case (Civil) No.92-95 of 2002, dated 8th April, 2004 [MARDIA CHEMICALS LTD v UNION OF INDIA & ORS], challenge to the provisions of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not tenable and for that reason relief prayed for in this writ petition cannot be granted. Writ petition is, therefore, dismissed.

DEVINDER GUPTA, CJ

G.ROHINI, J

30th June, 2004.

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ASSISTANT REGISTRAR

// true copy //

SECTION OFFICER

To

1. The Chairman, Indian Overseas Bank, No.8, Sterling Avenue,
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